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THE ORIGIN OF THE NATIONAL CUSTOMS-REVENUE OF ENGLAND ¹

SUMMARY

Importance and difficulty of the subject, 107. — I. Review of customs theories, 108. — *A priori* theories of customs origins, 108. — Prise theory of Mr Hall, 110. — Purveyance, 113. — Prise of merchants' goods, 113. — Prise commutations, 117. — The customs of 1275, 118. — Later history of the prise, 121. — The chain of errors in the prise theory, 123 — II. Local customs, 123. — *Custuma ville*, 124. — Periods in the development of local customs, 125. — Medieval and modern local customs compared, 127. — Local customs not to be expanded into national customs, 128. — III. Semi-national customs, 1050–1275, 130 — Lastage, 130. — Scavage, 133. — Ancient wine custom, 134 — The prise of wines, 136. — *Recta prisā*, 137. — Decay of these dues, 142 — IV. The customs experiment of King John, 143. — The fifteenth, 143. — The Great Winchester Assize of Customs, 144. — Failure of King John's customs system, 146. — V. Conclusion, 147. — Classification of customs, local, semi-national, and national, 147. — Efforts to create a national system, 1275–1347, 147 — Great influence of the local upon the national system, 148.

THE problem of the origin of the English customs-revenue is one of more than antiquarian interest. The subject forms an indispensable chapter in the history of taxation; it has a bearing on constitutional history;

¹ It will be convenient to group at the outset the titles of the chief books most frequently cited hereafter, together with the abbreviations used

Hall, History of the Custom-Revenue in England (1885), — Hall, Custom-Revenue.
Dowell, History of Taxation and Taxes in England (1888), — Dowell.

Madox, History and Antiquities of the Exchequer (1711), — Madox.

Bateson, A London Municipal Collection of the Reign of John, — Bateson, English Hist. Rev.

Calendar of Charter Rolls, — Cal. Ch. R.

Calendar of Close Rolls, — Cal. Cl. R.

Calendar of Patent Rolls, — Cal. Pat. R.

Rotuli Litterarum Patentium, — Rot. Lit. Pat.

Rotuli Litterarum Clausarum, — Rot. Lat. Cl.

Rotuli Chartarum, — Rot. Ch.

The manuscript sources which I have consulted are as follows. At the Record Office in London: the Customs Accounts of the Exchequer, King's Remembrancer

and it is of especial importance in a study of the development from the local to the national economy of England.

The student of the early history of the customs is beset by difficulties at every hand. There are comparatively few documents giving specific information for the period before 1275. After that year the detailed customs accounts, many of which still remain, were returned to the Exchequer. Undated or incorrectly dated documents add to the confusion.¹ The lack of a discriminating nomenclature at the formative period, which is of course to be expected, is a great drawback since it forces the investigator to exclude scores of documents too vague to be of service.

I

REVIEW OF CUSTOMS THEORIES

Difficult and obscure as is the problem of customs origins, there is no lack of explanatory theories. The first group of explanations may be designated *a priori*: the need that traders felt for protection, giving the crown an opportunity to offer its aid and to collect

branch, cited as K. R. Customs; the Wardrobe Accounts, cited as K. R. Accounts; the Pipe Rolls; the Memoranda Rolls, and the Pipe Rolls of the Bishop of Winchester, cited as Ecclesiastical Commission, Various.

At the British Museum' various manuscript collections, especially the Harleian.

About 20-25,000 Port Books (K. R. Port Books) were opened to the public early in the winter of 1911-12. By the courtesy of the Record Office officials, I was permitted to examine these documents even before they were made generally accessible. See my letter to the Athenæum, November 18, 1911, p. 625, and also my Memorandum on the Port Books and Coast Bonds in the Public Record Office, of December 12, 1911, privately circulated by the Royal Commission on Public Records.

¹ Dowell, for instance, dates the Statutum de Scaccario at 1266 (i, p. 77), following the statutes at large, when it should be put in the early part of the 14th century. Likewise the documents printed in *Liber Albus* are not carefully dated. To Professor Liebermann (*Zeitschr der Savigny-Stiftung*, V, 1885, *Leges Anglorum*, 1894) and to Miss Bateson (*English Hist. Rev.*, xvii, pp. 480-511, 707-730) not a little is due for text criticism and text editing.

a toll therefor;¹ the necessity of a royal licence to trade, particularly to import;² and finally, the assertion that the export tax was but a part of the general system of taxing personal property.³ It is small wonder that a critical scholar has scoffed at such theorizing.⁴

However well such views may fit in with the results of comparative studies of primitive conditions, they are obviously not so worthy of consideration as conclusions which are based upon direct historical evidence. From his study of the documentary sources, particularly constitutional, Stubbs was well aware that there was something like customs duties before 1275, tho he seems to have regarded the grant of that year as the legal foundation of the English customs,⁵ limiting elsewhere, nevertheless, the application of the grant.⁶ The counterpart of this theory of political origin by parliamentary sanction is that which emphasises the rôle played by the royal prerogative, especially the prerogative prise.⁷ This is the chief contribution of Mr. Hubert Hall, who apparently followed up and elaborated a general statement made by Dowell.⁸ This view has gained most general acceptance,⁹ since it is the only one resting upon an apparently adequate

¹ Dowell, vol. 1, p. 75.

² Hall, *Custom-Revenue*, vol. 11, pp. 76, 91-92 Bodin (*Six Livres de la République*, p. 875) combined these two elements of permission and protection.

³ Green, *History of the English People*, vol. 1, p. 323, Stubbs, *The Early Plantagenets*, p. 230.

⁴ McKechnie, *Magna Carta*, p. 465 n.

⁵ *The Early Plantagenets*, p. 231.

⁶ *Constitutional History of England* (ed. 1875), vol. 11, p. 523.

⁷ Hall, *Custom-Revenue*, vol. 11, chaps. 111-v.

⁸ *Sketch of the History of Taxes in England* (1876), vol. 1, p. 152. "Toll . . . appears to have originated in arbitrary exactions from the merchants."

⁹ Tout, *Edward I*, p. 141; Gardiner, *Students' History of England*, vol. 1, p. 211, Stubbs, *Const. History of England* (4th ed.), vol. 11, pp. 549-550 n.; Medley, *Const. History of England*, p. 470; Alton and Holland, *The King's Custom*, p. 4.

examination of the sources, and sufficiently elaborate to seem to take into account all of the facts.¹ Sir James Ramsay, however, has expressed a dissatisfaction with our present knowledge of early customs history² which must, indeed, have been felt by others. My own researches into the records, both those long open to the public, and those newly accessible,³ have made it clear that the evidence needs to be re-examined and supplemented.

Two modern writers content themselves with describing the early history of the customs as "intricate," "obscure,"⁴ and "complicated,"⁵ and an earlier author goes so far as to declare that it is fruitless to try to discover the origin of the customs.⁶ But it is clearly recognized that there were at the time of the *Magna Carta* "ancient and right customs which are referred to as well-known things."⁷ It will be the task of this paper, therefore, to consider the nature of the ancient and due customs of the twelfth and thirteenth centuries, customs not only "well-known," but, when the crown was attempting new levies, very much cherished. Before any attempt is made, however, to offer a new explanation, it will be necessary to examine Mr. Hall's accepted prise theory.

By the year 1347, there existed for the first time all those dues afterwards forming integral parts of

¹ Mr. Hubert Hall, the chief advocate of the prise theory, has given me valuable assistance during the period of my researches in the British Record Office, and altho I cannot accept the views expressed in his Custom-Revenue, I wish to acknowledge the great debt I owe him.

² Dawn of the Constitution, p. 314.

³ See above, p. 107, n. 1.

⁴ Medley, Const. History of England, p. 470

⁵ Martland, Const. History of England, p. 180.

⁶ Gilbert, The Court of Exchequer (1738), pp. 214-215.

⁷ Martland, Const. History of England, p. 180.

the "customs and subsidies,"¹ but for the beginning of the customs system, with which we are specially concerned, it is essential to go back of this well-known set of customs. This may be conveniently done by a consideration of four main topics: (a) the prise itself, (b) the prise commutations, (c) the customs of 1275, and (d) the later history of the prise.

(a) *The prise.* The evidence brought forward by the chief exponent of the prise theory is very scanty. For the Anglo-Saxon period there is confessedly "no evidence," "But there is a strong presumption from the analogy of later Customs."² The examples for the later period cover the reigns from Henry II to Edward II and are either orders to provide various goods without further specification, or where information is definite, "examples of purveyance pure and simple."³ In the chapter following that containing the above references is a Chamberlain's account of 10 Richard I, in which are cited "prises proper, or goods purveyed and resold at a profit."⁴ These are three in number: wine, wool, and corn prises. The wine prise is dealt with below.⁵ The other two examples are important here. In the original document nothing is said about the wool in question being prise-wool.⁶ In case of the

¹ Under one or the other of the following categories every article exported or imported by alien or denizen was included and taxed:

Aliens	Denizens
Customs of 1275.	Customs of 1275.
New customs of 1302-03	Cloth customs.
Subsidy on wool.	Subsidy on wool
Tonnage and poundage.	Tonnage and poundage

In addition to these was prisage, due on aliens' wines imported till 1302-03, and on denizens' wines imported till the 18th century.

² Hall, Custom-Revenue, vol. 11, p. 61.

³ Ibid., vol. 11, pp. 64-69. In 1174-75 account was made "de Prisris et redemptione prisonum et alius perquisitionibus tempore werre." Pipe Roll, 21 H. II, p. 5.

⁴ Hall, Custom-Revenue, vol. ii, p. 83.

⁵ See p. 136.

⁶ "Et de XX^{li} de lana Willelmi de Bolonia vendita per visum Stephani Crassi et Yvenis Clerici constabularii et Petri Bat." MS. Pipe Roll, No. 44, memb. 12 b.

prise-corn, the word "captus" is used, which clearly indicates a seizure of the goods themselves,¹ but elsewhere in the same document, "capture" is made from "the King's enemies" or because of contravention of the king's orders against exportation to Flanders. It is probable that the men of Rye who had their corn seized by the king were guilty of this offence, in common with the other men of the Cinque Ports.²

Up to the time of Richard I, then, not a single clear example of the general prise has been brought forward. None the less it behooves us to inquire if there can be found any further valid evidence for regarding the prise as a precursor of the customs. Is it true that the king sought so rough and ready a way of providing for his needs, which he later changed into a great financial system?

In the interpretation of the documents bearing upon the subject, one must clearly distinguish between two well-marked meanings of the word "prise." Failure to do so has marred much that has been written on the subject. The two meanings are, on the one hand, purveyance and, on the other, seizure of merchants' goods. Under these two heads, I list the chief prises found in the thirteenth century or earlier. The following scheme indicates the distinction which should be borne in mind:—

A. Purveyance from producers:³

I. Irregular:—

- (a) Use, provisions for king's household.
- (b) Abuse, (1) by king's servants, resale for profit.
- (2) by king's order, wool, etc., for resale.

II. Regular: locally for provisioning castles.

¹ Et de XIIIth et XIIIth et XI^d de Blado capto ab hominibus de Ria.

² Madox, vol. 1, p. 565 n. (1 John).

³ The antithesis of producers and merchants is obviously more convenient than logical.

B. Prise of merchants' goods: —

I. Irregular: local and foreign trade not differentiated.

(a) Use, (1) for wardrobe, wax, cloth, etc.

(2) for butlery, wine.

(b) Abuse, (1) excessive amounts, non-payment, delay of payment, undervaluation, etc.

(2) drawing the prise into a custom: —

(a') for resale, (b') for money fine.

II. Regular: the ancient prises due and accustomed.

(a) Foreign trade, for butlery, *prisa vinorum*:¹ —(1) *Pre-recta*, (2) *Recta*.

(b) Local trade.

Purveyance. — This was the ancient provision made by the king (or a lord) for supplying himself and following with food and other necessities, by a seizure of the goods desired. The history of this institution from the twelfth to the seventeenth century is well known and needs no further comment here, except that it was irregular² and sporadic, and was based upon the household and military needs of the king. Whether the goods seized were paid for depended much upon circumstances, the legislation sought to safeguard the subject in this respect.

Prise of merchants' goods. — Whilst general purveyance affected producers, the prise of merchandise touched chiefly middlemen; whilst the first was chiefly for household use, such as corn, beef, eggs, etc., the latter was primarily for the Great Wardrobe, and included such commodities as cloths and wax.

The earliest instance found of the prise of merchants' goods comes from the middle of the twelfth century. "Within the term of these three tides, the sheriff and the king's chamberlain are to come to the ship

¹ Below, p. 136.

² One form of prise was regularly provided for, if not regularly levied. the prise which the constable of a castle could take from the people of the town in which the castle was situated, Ed. I, chap. 7.

and, if there is a vessel of gold or silver of Solomon work, or precious stones, or cloth of Constantinople or of Regensburg, or fine linen, or coats of mail from Mainz, they shall take them for the king's use, by the view and appraisal of the loyal merchants of London and within a fortnight pay the money."¹ This document shows clearly a normal case of prise, not a capture but an appraisement, not a mere seizure but an official purchase. All the articles were for the king's use.

My table of analysis of the prise has obviated discussion on many points of detail, but it is of the greatest importance to mark that local trade was not differentiated from foreign trade. The irregular prise was taken at fairs,² good towns, and sea-ports.³ In spite of what has been said to the contrary, that from general purveyance the prise was "extended to the case of commodities either exported from or imported into this country,"⁴ it is clear that the prise on merchants' goods partook more of the nature of a

¹ A London Municipal Collection of the Reign of John, Bateson, E. H. R., vol. xvii, pp. 496, 499. (Cf. Hohlbaum, Hans Urkundenbuch, vol. iii, § 602.)

"Dedenz le terme de ices tres itides deit le veskunte e le chamberleng le rei venir a la nef e se il iad veissele dor u dargent del oure salemun v priere precieuse v pailles de Costentinoble v de Renesburgh v cheinsil v walebrun de Maence, sil prendrunt al oes le rei, par lesgart e par le pris des leals marchantz de Lundres, e a quinzaine rendre lur deniers."

² Infeng is explained as "Quite de prises en festes." *Expositiones vocabulorum*, Red Book of the Exchequer, vol. iii, p. 1035.

King Henry III, in the 30th year of his reign reserved for himself, when granting the tolls of the fair of St. Ives, the prise there. "Salvis nobis et heredibus nostris prisus in eisdem" [nundinis Sancti Yvonis]. MS. Cart. Harl., 58, i, (10).

The king also granted in the same year to a merchant of Douay: "quod negotiari possit per totum Regnum Anglie faciendo rectas et debitas consuetudines. Ita quod nulla prisas fiat ad opus Regis de pannis suis ab instantibus nundinis Sancti Botulfi anno etc. xxx usque in 111 annos sequentes" Pat. R., 30 H. III, m. 4. Cf. Hall, Custom-Revenue, vol. ii, p. 86.

"De prisas domini regis nundinis et mercatis et civitatibus" Petition of the Barons, 1258 (Stubbs, Select Charters, p. 376).

³ "And concerning Prises made in Fairs, and good Towns, and in Ports for the King's great Wardrobe, the Takers shall have their common Warrant under the Great Seal." 28 Ed. I, chap. 2.

⁴ Hall, Custom-Revenue, vol. i, p. 61. Cf. Cunningham, English Industry and Commerce (4th ed.), vol. i, p. 276.

special tallage of merchants, comparable with that of Jews, than of the nature of custom duties. It resembled a tax on the moveables of one class of the community rather than a tax on articles of trade, and certainly articles of foreign trade as such were not considered at all.

Frequent reference was made in the thirteenth century to prises over and above those that were "ancient due and accustomed."¹ This applied to wines as well as to other commodities. But there is no evidence to show whether this was the use or the abuse of the prise. Freedom from either would have been a privilege of value.

By far the greatest interest centers about the abuse of the irregular or unsystematic prise, by which the prise might have been "drawn into a custom," that is, the prise might conceivably have become systematic.

It is well known that Henry III was more or less a wine-merchant, and that Edward I was on the highway to become a wool-monger. But the crown could never get very far in dealings of this kind. Only a few commodities lent themselves to such exploitation, and the king of England never became a merchant prince. It was in the levying of a money fine for exemption of merchandise from all prise that the irregular prise had some chance of becoming regular or systematic; since a money fine lends itself to systematic exaction and collection. But the only evidence found of such a development is in section 23 of the Petition of the Barons in 1258. From the preceding

¹ The merchants of Bordeaux in 1253-54 secured the exemption from all prises over and above the ancient prises of wines. *Cal Pat R*, H III, vol iii, p. 294. Likewise the men of Bourg-on-the-Sea received freedom in 1254 for three years from the super-prise on wines. *Ibid*, vol iv, p. 381. In 1266, the men of Dieppe were freed from "prises, prests, and other exactions and demands, . . . except the king's due and ancient prises"; and the merchants of Lubeck were given similar exemptions, except when payment was immediately made to them. *Cal Pat. R.*, H. III, 1258-66, p. 621; Höhlbaum, *Hans. Urkundenbuch*, vol. i, § 635.

clause, however, it is evident that this had not gone far, that is, had not really supplanted the prise of goods itself.¹

The regular prises on merchants' goods were the often mentioned "due and accustomed prises" which, like the irregular ones, concerned local as well as foreign trade. The only article prized thus in foreign trade was wine.

The regular prise in the local trade was either a tax ("custuma ville") on local trade paid in kind, with which the crown was usually not directly concerned, or a prise for the upkeep of a castle. Examples of the former class are to be found in Sandwich,² Lynn,³ Berwick,⁴ and Chester,⁵ and of the latter in Worcester,⁶ and Bristol.⁷ The prise of the second class is further clearly set out for Newcastle,⁸ and indeed was regarded as a perfectly general right in 1317,⁹ and in the

¹ § 22 The king's takers of prises in fairs, markets, and towns are to be reasonable, and take only for the king's use. Complaint is made that they take two- and three-fold more than needed, and that they take for their own use and for their friends, and even sell a part

§ 23. "Item conqueruntur quod dominus rex de prisīs nullam fere facit pacationem, ita quod plures mercatores de regno Angliæ ultra modum depauperentur, et alii mercatores extranei ea occasione subtrahunt se de veniendo in terram istam cum suis mercibus, unde terra magnam incurrit jacturam" Stubbs, *Select Charters*, pp. 376-377.

² MS K. R. Customs, 157/12 (Ed. I). Port somewhat uncertain, but clearly on the east coast near London.

³ Gross, *Gild Merchant*, vol. II, p. 157 (1335).

⁴ K. R. Customs, 193/2 (31 Ed. I).

⁵ MS. Harl. 2125, fol. 189 b [ca. 1560], a prise due "of ould tyme."

⁶ Cal. Ch. R., H. III, vol. I, p. 23 (1227).

⁷ Cal. Cl. R., H. III, vol. I, p. 257 (1229).

⁸ Altho in 1229 it was held that the local prise did not belong to the crown (Cal. Cl. R., H. III, vol. I, p. 152), in 1290 it was made clear that the king had, besides the recta prisā on wine, a prise on herrings and haddocks. Rot. P., vol. I, p. 27 a.

⁹ No purveyance is to be made unless payment is rendered, "excepting the ancient prises of the king in places where the king's castles are situate according to Magna Carta and the other prises due to the king." Cal. Cl. R., Ed. II, 1313-18, p. 584.

reign of Henry VIII was still a regular practice in London.¹

From what has been said, it is evident that the "ancient prises due and accustomed" either had no reference to foreign trade, or were confined to one article of foreign trade, wine, clearly an exception.² The other prises were never systematized. Not only has no evidence been adduced by the sponsors of the prise theory, but I have found no additional support in the accounts of the exchequer or wardrobe, either particular or summary.

(b) *Prise commutations*. — The second stage in the prise theory is found in the period from Richard I to Edward I,³ when, it is alleged, the prise was commuted to a money payment. If the conclusions in the preceding section be correct, there is obviously no room for commutation. Nevertheless the evidence for prise commutation deserves examination.

The one example given of a tenth levied on merchants' goods belongs to 10 Richard I.⁴ But this, like an earlier case,⁵ is probably a tallage of a tenth.⁶ Certainly there is no evidence that it is a tax on trade as distinct from a tax on personal property.

The fifteenth is considered at length below.⁷ If our evidence fails us not, it belongs to the reign of

¹ Petition of wine merchants, alien and denizen, against the practice of the officials of the Tower of filling their great bottles of three pottles each with wine and loss from spilling. Merchants were willing to commute to a money payment. MS. K. R. Customs, 195/20.

² Below, p. 140.

³ Hall, Custom-Revenue, vol. 1, p. 66, vol. 11, p. 133.

⁴ Hall, Custom-Revenue, vol. 11, p. 83. "De decimis mercatorum de pluribus mercaturis quas recepit per x dies in primo anno sicut dicit" MS. Pipe Roll, L.T.R., No. 44, m. 12 b.

⁵ Madox, vol. 1, p. 775 (6-8 R. I). "De Finibus et Decimis Mercatorum de Stagno et aliis Mercaturis apud Londoniam"

⁶ Cf. Madox, vol. 1, p. 730 (6 R. I), also vol. 1, pp. 726-727.

⁷ See p. 143.

John, has nothing to do with prises, and was abolished for good and all before the death of the king who instituted it. Madox¹ seems to have been the first to have coupled the tenth with the fifteenth, and most subsequent writers have found virtue in the association. Perhaps the original suggestion of the tenth and fifteenth as a trade duty came from the tenth and fifteenth on moveables, a wholly different tax.

(c) *The customs of 1275*. — In disposing of the first two points, we have virtually disposed of the others also. Yet for the purpose of continuing our examination of the third step in the prise theory, the commuted prise, the tenth and fifteenth, may be taken for granted; that is, the first links in the chain are to be provisionally accepted in order to test the third. The third link is that the grant of 1275 was merely an official confirmation of old dues, — dues now granted anew.² This is based upon two suppositions; first, that the customs of 1275 were called “ancient” at the time, and second, that they were levied upon a wider range of goods than specified in the grant.

The *Carta Mercatoria* of February 1, 1302–03, gives some clue on the first point. The term “ancient customs” occurs in three connections: first, with reference to the 2s. per tun duty on imported wine (later called butlerage), “beyond the ancient customs due and accustomed to be paid to us and others in money”; second, in connection with the increase over the ancient customs of 1275 on wool, wool-fells, and hides; and third, the increase of new customs “beyond the ancient customs formerly given to us

¹ Madox, vol. 1, pp. 771–775.

² Cf. “*Custuma vinorum* (‘*ultra Antiquam Custumam unius denarii Regi vel alius solvendam*’).” Hall, *Custom-Revenue*, vol. 11, p. 109.

or to others.”¹ Besides these the wine prise, henceforth commuted to butlerage, may also be included as ancient customs.

Ancient customs at this time, then, were taken to be (a) the customs of 1275, and (b) another set, about which little is here made known except that they included a money duty on wine, a wine prise, and other dues payable to the crown and others, to which the burgesses of England had no objection, and which were therefore of definite meaning and well understood.²

In the *Carta Mercatoria* the customs of 1275 are called “ancient.” Dowell maintains that they were so called for the first time in 1297,³ in the *Confirmatio Cartarum*, and this view has been accepted by others.⁴ But Mr. Hall uses the term “Antiqua Custuma”

¹ If this phrase in the *Carta Mercatoria* referred solely to the poundage on aliens' exports, then it would not be placed where it is, but after “argenti,” as in the cases where it occurs elsewhere.

“Item, de quolibet sacco lanae, quem dicti mercatores, aut alii nomine ipsorum ement, et de regno nostro educent, aut emi et edduci facient, solvent quodraginta denarios, de incremento, ultra custumam antiquam dimidia marcae, quae prius fuerat persoluta. . . . Cumque, de praefatis mercatoribus, nonnulli eorum alias exercent mercandisas, ut de averio ponderis, et de aliis rebus subtilibus, sicut de pannis Tarsen', de serico, . . . et aliis rebus, et mercandis multimodis, quae ad certam custumam facile poni non poterunt, idem mercatores concesserunt dare nobis, et haeredibus nostris, de qualibet libra argenti aestimationis, . . . tres denarios de libra, in introitu rerum et mercandisarum ipsarum, in regnum et potestatem nostram praedicta, . . . , et similiter tres denarios de qualibet libra argenti, in eductione quarumcumque rerum et mercandisarum hujusmodi, emptarum in regno et potestate nostra praedictis, ultra custumas antiquas, nobis, aut aliis, ante datas.” Rymer, *Foedera*, vol. 11, pt. ii, p. 748

² Mr. Hall, however, in speaking of the customs about 1297 [–1303] refers to “an indefinite toll upon merchandise at the ports,” and “a discretionary toll upon all merchandise” *Antiquary*, vol. vi, p. 63

“It is probable that a customary percentage was charged on other merchandise also.” Meredith, *Economic History of England*, p. 72

Fleta (ed. 1647, p. 84) is similarly indefinite “Item quod principales collectores custumarum, lanarum, coriorum, aliorum theoloniorum dictis terminis denarios Regis receptos liberentur ad Scaccarium”

³ *Sketch of the History of Taxation*, vol. i, p. 157. This seems to have been an attempt to harmonise Gilbert's assertion that he saw in the Tower a record of the customs of 1275, called “nova custuma” with the preconception that before 1302–03 they were called “ancient.”

⁴ Kunze, *Hanseakten aus England*, p. xxxvii; Meredith, *Economic History of England*, p. 173.

as if such a designation held good from the very first, that is in 1275.¹ The earliest occurrence of the phrase anywhere found is in a printed document of the year 1297. It appears, however, that the phrase is not to be found in the original document itself, but proves to have been interpolated by Mr. Hall.² The term "*antiqua custuma*," having reference to the dues of 1275, in fact occurs first in the *Carta Mercatoria* itself. The "particulars" of customs accounts use the phrase "new customs," "*La novel custume*" or "*nova custuma*," in reference to the grant of 1275,³ up to the very day on which the *Carta Mercatoria* was issued.⁴ The original grant of 1275 does likewise,⁵ tho both Stubbs⁶ and Mr. Hall⁷ quote the *Irish* grant written in Latin, in which no general designation at all is found, in preference to the *English* grant in French, which contains the proper caption "new customs."

Tho surprise has been expressed that the customs of 1275 should have been called "new,"⁸ there is really no occasion for it apart from the fact of non-agreement with text-books. The simple explanation is that the customs being called "new" were "new,"⁹

¹ Social England, vol. 11, p. 104; Custom-Revenue, vol. i, pp. 67, 159, vol. ii, p. 90.

² Hall, Custom-Revenue, vol. 11, p. 38 n. For the correct reading see Madox, vol. 1, p. 784 n.

³ MS. K. R. Customs, 55/1 (Hull), *ibid*, 135/1 (Chester). The latter document is nearly half decayed, but the former is in an excellent state of preservation.

⁴ For example, MS. K. R. Customs, 55/8 "*Rotulus Ricardi Oysel et Roberti de Barton custodum nove custume domini Edwardi Regis Angliae Illustri apud Kyngeston super Hull a die Pentecost' anno Regni predicti E. Regis Tricesimo primo.*"

⁵ MS. Fine Rolls, membs. 24 and 25; Parl. Writs, vol. i, p. 1.

⁶ Select Charters p. 441

⁷ Custom-Revenue, vol. 1, p. 200.

⁸ Jenkes, Edward I, p. 175.

⁹ The circumstances giving rise to the establishment of the customs of 1275 are unknown. Sinclair (History of the Public Revenue, 3d ed., 1803, vol. i, p. 109) says that "Edward I . . . having seen during the course of his expedition to Palestine, with what facility considerable sums of money were levied, by way of custom, in foreign countries, he thought it would be a happy expedient for raising a revenue in his own kingdom."

and remained so until still newer ones were introduced, making those of 1275 seem old. The customs of 1275, then, could not have been old customs re-enacted, could not have been prise commutations confirmed by parliament.

Besides the exact name of the grant of 1275, it is important to know the commodities included. This would seem to present a matter of no difficulty, since the documents specifically mention wool, wool-fells, and hides. But modern interpretation has extended the scope of the levy to include provisions and minerals (tin and lead),¹ and indeed all exports,² which gives the dues of 1275 an importance and comprehensiveness far beyond usual acceptance. But such a view is untenable. The "particulars of account" of the "ancient" customs from 1275 onwards exist in great numbers, and never, among the scores which I have read, does a single article occur except wool, wool-fells, and hides.

It follows, then, that if prise commutations (tenths and fifteenths) were collected from goods in general (exported and imported), and the customs of 1275 from only three articles (exported), the grant of that year could not have been a parliamentary confirmation of the earlier dues. The customs of 1275 had, then, no connection with the prise commutations, and the latter had not only no beginning but (as well as therefore) no ending.

(d) *Later history of the prise.* — It is maintained that the new customs fixed by the *Carta Mercatoria* ended the period of general prises or prise commuta-

¹ Hall, *Custom-Revenue*, vol. i, pp. 5, 66. cf. *Antiquary*, vol. vi, p. 211. Elsewhere the same writer clearly confines the grant to the articles mentioned in the writ itself, as in his *Custom-Revenue*, vol. ii, p. 88.

² Stubbs, *Const. History of England* (ed 1875), vol ii, p. 523.

tions, so far as aliens were concerned.¹ The charter granted to the merchants of Aquitaine in 1302² specifically states, and to a less degree, the more general, as well as better known, *Carta Mercatoria* dated a few months later,³ that the prises both on wines and on other merchandise were henceforth to cease. The accepted explanation of the new customs would be unquestioned, if the prises referred to were systematic prises on general merchandise of foreign trade. But it has been indicated that no such system of prises existed. The foreign merchants granted the king new customs, not as a substitute system for prises except in the case of wine, but in return for many privileges, not the least of which, however, was the irregular prize, exemption from the occasional seizure of their goods in fairs, ports, and towns.

But according to what has become the orthodox view,⁴ these prises continued to be exacted from denizens, who foolishly refused the new customs of 1302-03; and they were abolished only under pressure from a parliament of growing influence and power. In other words, — perhaps we may so put it, — they continued till a parliamentary system of customs had been worked out between 1302-03 and 1347. But if the above explanation of prises is correct, there were none to commute, except those irregular prises and purveyances which lasted down to modern times, or those systematic

¹ Hall, Custom-Revenue, vol. 11, p. 119.

² Carta "de Libertatibus concessis Mercatoribus Vinetarius de Ducatu Aquitanie," 30 Aug., 30 Ed I. Red Book of the Exch., vol. 111, pp. 1060 ff. The king agreed not to exact any "prisam vel quameunque aliam vinorum vel aliorum mercimoniorum" except on immediate payment or satisfaction therefor.

³ Carta Mercatoria, Hall, Custom-Revenue, vol. 11, p. 204. The king consented to make "nullam Prisam vel Arrestacionem seu dilacionem occasione Prise de cetero de Mercimoniis, Mercandisiis seu aliis Bonis" without immediate payment at the market price. Cf. also *ibid.*, pp. 207-208.

⁴ Cf. Hall, Custom-Revenue, vol. 11, p. 134.

local prises and the regular prise on imported wine, both of which likewise lasted to the modern period. The burgesses of forty-two towns in 1303 refused the new customs, not because they liked prises, but because as conditions then were, they were subject to no prises or any other regular dues except "the duties of old due and accustomed,"¹ which they were content to pay. What these were will be seen below.

Every step of the argument is erroneous,—prise, commuted prise (tenth and fifteenth), the all inclusive ("ancient") customs of 1275, new customs of 1302-03 as commutation of prises due from aliens, the refusal of denizens to commute in 1303, and the later decay of prises due to the growth of parliamentary power.

II

LOCAL CUSTOMS

Local customs in England were much the same as those on the Continent, except that in England there was, of course, nothing quite analogous to the local territorial system.

Of the numerous English local customs (*consuetudines*) only a few are important here: river tolls, passage dues, and town customs.

Of river tolls little is known except that they existed. On the Thames there was an "*Avalagium Thamisiae*," a "*Consuetudo Navium per Tamisam*," a "*theloneum Maereni nostri carciati per avalagium Tamisiae*."² Likewise at Abingdon each ship of Oxford using the river paid its toll in fish.³

¹ Stubbs, *Select Charters*, p. 490.

² Madox, vol 1, p. 775 (19 H. II and 32 H. III)

³ *Hist. Mon. de Abingdon* (R. S.), vol 11, p. 119 (H. 1)

Besides having to pay to cross a bridge, or use a ferry, the traveller had to pay head-money,¹ or as it was early called "passage."² This was a due either for crossing a river³ or passing through a port town,⁴ and is as old as the Conquest at least.⁵ So important was this toll that nearly all charters to towns and monasteries contained exemptions from it.

It is the sea-port town dues, however, which are of greatest interest here. These were of many kinds, the chief of which may be put into more or less distinct categories: first, such dues as murage and paviage which were for local utilities; second, anchorage, strandage, etc., for a special local privilege; third, pesage, cranage, etc., for a local service rendered; and last, the town toll, later called "custuma ville."

The "custuma ville" was the general town due paid on goods for sale,⁶ for no special use, service, nor privilege, but leviabie as a local or municipal right. It is to be compared and contrasted with the national customs revenue, as the local customs *par excellence*, to which all other town dues were subsidiary.

¹ MS. K. R. Customs, 133/7 (Sandwich, 6-7 Eliz.). The "head-money" account replaces the old "passagium" At times "passage" was on horses, carts, and merchandise as well as on individuals. Abbreviatio Rot. Orig., vol. i, p. 227 (Ed. II).

² MS. Ecel Com., Var., 44/159403 (1396-97). One farthing was charged in the account of the maner of Witney "for water passage at Babelak for the free passage of the lord and his falcons for a year"

³ Records of the Borough of Nottingham, vol. i, pp. 2-5 (1155-65). A toll "de omnibus Trentam transeuntibus."

⁴ MS. K. R. Customs, 157/12 (Sandwich, Ed. I).

"Naves passagientes quando applica[n]tes apud Sandwycum] quilibet homo nisi sit de franchisa [11 d.] Judeus dabit [1111 d.]"

⁵ Domesday Book, vol. i, p. 273.

⁶ Only goods for sale paid local customs. In the London list of dues [Ed. I ?] each item has "venalis" placed after it. MS. K. R. Customs, 193/3. The jury, too, presented that tho the men of Southampton paid toll at the vill of Crydinton, they never paid on goods there bought for their own use. Abbreviatio Placitorum, p. 210 (14 Ed. I).

The history of the "custuma ville" may be studied from about the eighth century down to modern times, in charters of grant and exemptions, general and summary accounts of collectors, and legislative enactments. But the history of the local customs has little interest here apart from the following rough periods of its development: 800-1100, inception and growth; 1100-1550, numerous exemptions; 1550-1835, great decay on account of rise of prices and the spirit of national economy; 1835 to the present, consolidation and restoration.

Speculation as to the original source of the power to impose local taxes is almost fruitless. During the greater part of the first period, the crown successfully maintained its prerogative right to grant such local customs, and certainly from that time to the modern period, that power has never been gainsaid. But on the other hand, the locality had an activity and vitality of its own, apart from the legal theory of sovereignty. It would not be far wrong to say that whilst some formulation came from above under the ægis of the Roman law, nevertheless, the germination of the movement was not only within the theory but independent of it.¹ As evidence of this there are numerous cases of the unauthorized imposition of new tolls,² the increase in old rates,³ and the leagues of towns creating inter-municipal free-trade unions.⁴

¹ Cf the case of London, 1616. The citizens claimed that by virtue of charter they "have and doe receive and take tolle and tallage and thoroughtoll," but they hold wheelage "by antient prescription and not by force of any graunte." MS. in Guildhall, London, *Jor. C. C.*, vol xxxi, p. 49.

² Domesday Book, vol 1, pp 315, 375, 376, Bracton, *De Legibus Angliae*, vol. i, p. 247 (inquiry concerning new levies of customs, a crown plea), *Hundred Rolls*, vol. i, p. 133 b, *State Trials of the Reign of Ed. I*, pp 174-175 (1289-93).

³ 22 H VIII, chap. 8, MS St P, Dom., Jac. I, vol lxxviii, No 54.

⁴ Marlboro and Southampton, 23 H III, Gross, *Gild Merchant*, vol 11, pp. 173-174; London and Winchester, 1304, *ibid.*, p 258, Salisbury and Southampton, 1330, Ashley, *Economic History of England*, vol ii, p 45, Nottingham, Coventry, and Lincoln, 15th century, *ibid.*, Dunwich and Hull, 37 H. VI, MS. Add. Ch., 40680.

But difficult tho it be to estimate the part played by the crown in the origin of the financial organization of town economy, it is easy to estimate its part in the gradual process of breaking down that system, which came about to some extent through the practice of exemptions. The system of exemptions was at once the strength and weakness of the local customs. In so far as the chief men of the town, either all the citizens¹ or the members of the Gild Merchant,² were exempt from the local customs, a powerful force was created for their continuance, since it was also the continuance of an exemption of considerable importance to those favored. Hand in hand with this went the exemption from the customs of other towns,³ which was ample reason on the part of the favored for the whole system, but obviously weakened it as a financial system. Of greater importance in the undermining of the local system was the practice of granting exemptions to religious houses⁴ and organizations,⁵ as well as to tenants on the royal demesne⁶ and other private individuals.⁷ In all, the list of exemptions was so

¹ Charter of London, H I, in Stubbs, *Select Charters*, p 103, Ipswich, 1200, Gross, *Gild Merchant*, vol 11, p 115 Cf. Ghent, 1199, *Warnkonig*, vol 11, p. 20.

² E. g., Leicester, 1278, *Records of Leicester* (ed Bateson), 1103-1327, p 171. Cf. St. Omer, 1127, *Giry*, p. 372

³ E. g., Dover, 1066, *Domesday Book*, vol 1, p 1a, exemption from toll throughout England, London (H I), Stubbs, *Select Charters*, p. 103, Nottingham, 1189, *Records of Nottingham* (ed Stevenson), vol. 1, p 9 Cf. exemption of the men of the church of Strasburg, 775, Keutgen, *Urk. zur Stat. Verfassungsgesch.*, p 40; also the exemptions of Flemish towns in *Warnkonig*, vol. 11, pt. 2, p. 4, Dam, 1180, p 72, Furnes, 1176, p. 9, Nieuport, 1168, p. 91

Beverley received, temp H. I, exemption from tolls throughout Yorkshire, Gross, *Gild Merchant*, vol. 11, p. 21.

⁴ E. g., Abingdon, *Hist Mon. de Abingdon*, p 218 (H. II), Christchurch, Canterbury, *Cal Pat R.*, Ed. I, vol 1, p. 344 (1279), Kemble, *Saxons in England*, vol 11, pp 75-76, cf. Keutgen, *Urk. zur Stat. Verfassungsgesch.*, p 50 (1149).

⁵ Notably the Templars, *Rot. Cart.*, vol. i, p. 1 (1199).

⁶ *Abbreviatio Placitorum*, p. 305 b (2 Ed. II); *Close R.*, No. 217 (4 John, 1 R. II); *Select Cases in the Star Chamber* (Selden Soc.), p. 121 (1517).

⁷ Davies, *History of Southampton*, pp. 228-230.

considerable¹ that it was chiefly aliens,² and a few of the poorer denizens without the town who paid the town customs.

If we were to compare the local customs of 1200 with those of 1900, we should note that, while at the earlier date, there were many exemptions, at the latter date there were practically none; that many dues of the twelfth and thirteenth centuries were later consolidated, and that the local rates on such goods as bore both local and national customs were much higher in proportion at the earlier date than at the later. In the thirteenth and fourteenth centuries, as now, the local rate was lower than the national.

<i>Local</i>		<i>National</i>	
[London, Ed I]	0.8% ³	Fifteenth of John	6.6%
Sandwich, 6 Eliz	0.8% ⁴	Poundage of 1302-03.	1.2%
		Poundage of Ed III.	2.5%
		Poundage of 15th cent.	5.0%

But this difference is not at all essential, resulting as it did from the fact that the local tax was fixed at an earlier date than the national, that is, much before the rise of prices of the twelfth and thirteenth centuries.

Just as national tariffs discriminate against nations, so local tariffs discriminated against towns. For instance Dunwich charged one shilling more on a ship of Walberswick than on one from Southwold.⁵ This local discrimination might take the form of favoring a

¹ Boys, *History of Sandwich*, p. 440. Exempt in Sandwich (13th century?) were, (a) those of the Cinque Ports and their members, (b) those scot and lot of Canterbury, (c) as well as of London, (d) the people of the archbishop of Canterbury, (e) the pot-boilers of the archbishopric, (f) those of the hundred of Milton, (g) those of Battle, (h) St. Albans, (i) Antwerp, (j) Gynes (Guines), and (k) Sir Ingeram de Fyesnez.

² Some aliens were also exempt, for instance, the merchants of Scotland, 1237; Hohlbaum, *Hans. Urkundenbuch*, vol. i, § 281.

³ MS. K. R. Customs, 193/3. Rates specific. "Et sic de qualibet alia mercandisa superius non nominata precii xx s. — u d."

⁴ MS. K. R. Customs, 133/7.

⁵ MS. Add. Roll, 40736 (19-20 Ed. I).

foreign town or nation against an English town, as in the case of Sandwich, which charged more on fish going towards the Thames (to London) than on fish going to France or elsewhere abroad;¹ the idea apparently being to tax all non-freemen engaging in the London trade very heavily so as to reserve that trade for the burgesses of the town.

This discrimination leads us to the essential difference between national and local customs. The former were only on foreign trade, and the latter on all trade in and out of the town, regardless of political boundaries. To this difference must be added the fact that while national customs rates were determined by the central government, the local rates, no matter what the ultimate source of the imposition, depended upon local organization for their working out, for they were the dues which custom had imposed, and differed as between town and town in particulars, tho inter-town and inter-port trade tended to level the discrepancies of rates.

It is evident, then, that local customs, the "petty customs" of the towns, were distinct in nature from the national customs. Bynostretch of the imagination or misinterpretation of facts can the local customs be expanded into national customs. Yet it is in part the thesis of this paper that no account of the origins of the national system can be adequate without taking the local system into consideration. Whilst the national customs-revenue was not based upon the local, the latter system was the most important single element affecting the early development of the national system.

¹ MS K R Customs, 157/12 (ca 1300).

"Lasta allecium versus Tamisiam
Item versus Franciam
M de Makerel versus Tamisiam
Versus partes transmarinas

x d.
iiii d.
x d.
iiii d."

III

SEMI-NATIONAL CUSTOMS 1050-1275

The formulation of the problem connected with the origin of the national customs system is very simple: what were the earliest dues upon foreign trade imposed by the king in his political capacity; that is, customs levied on goods exported and imported, and collected at the ports generally, in ports of private franchise as well as in those of the demesne?

The immediate task is to examine the early dues which, wholly or in part, answer to this formula. It is not to be expected that the purely national customs are to be found in the earliest times when the local system was predominant; but on the other hand, national elements are discoverable which deserve a prominent place in the history of custom origins. Four customs in this connection are important: lastage, scavage, wine customs, and prise of wines, all of which partake of the nature of both local and national customs. For lack of a better phrase, I call them semi-national.

(a) *Lastage*. Some half dozen meanings of lastage have been collected,¹ three of which are of interest here. It has been defined by lexicographers, medieval² and modern,³ as well as by modern historians⁴ and editors of texts, as a "custom exacted in fairs and

¹ New Oxford Dictionary, s v. "Lastage"

² Liber de Hyda, p. 44, Expositiones vocabulorum, Red Book of the Exch., vol. III, p. 1033.

³ Spelman, Glossarium (ed 1687), p. 351, Du Cange, s v "Lastage"

⁴ Speed, History of Southampton (ed Aubrey), p. 237 n.; Introduction to the Pipe Rolls, vol. III, p. 85, Walford, Fairs, Past and Present, p. 20.

markets."¹ But I have found no clear example of such a use in any contemporary records or accounts of fair dues;² and at times in the records lastage is even set apart from and contrasted with the fair dues.³ Another meaning given to lastage is ballastage, or a payment for the privilege of taking in ballast.⁴ That this was one of the uses of the term, there is no doubt. But the lastage of moment here was not a fair due, not collected inland but "along the sea-coast,"⁵ a due paid by ships leaving port with cargoes of regular merchandise not of ballast-stones, and not paid at a rate of so much per ton or per ship, but at a specific rate on each article.⁶

The earliest occurrence of this lastage is in the Chester customs of the time of the Confessor.⁷ In the Pipe Rolls it is often found, as in 1130,⁸ 1155-56, 1157-58, 1158-59⁹, 1171-72,¹⁰ and so on into the thirteenth century.¹¹ The towns mentioned are all on the sea-coast: Exeter, Hastings, Bosham, and Sandwich.

¹ Thorpe, *Ancient Laws and Institutes*, Glossary, *Gross, Gild Merchant*, vol. 11, p. 409, *Riley, Liber Custumarum*, vol. 11, p. 812 "A custom exacted in markets and fairs, for licence to carry goods from place to place, in the form of a package or last."

² Tolls at the fair of St Giles, Winchester, 1297-98 gate tolls, *magnum pondus, terragium, bovagium, seldagium*, entrance and other dues *MS Eccl Com*, Var., 27/159317. Cf *ibid*, 23/159286 (1292-93), *MS. K R Accounts*, 507/2 (17 Ed II). For St. Ives, see *MS Cart. Harl*, 58, 1 (10), 30 H. III, *Gross, Law Merchant* (*Selden Soc*), I.

³ *Pipe R*, H. I, p. 153. "De Lestagio Civitatis [Exonie] 60s, De Feria Exonie 60s."

⁴ *Godefroi, Dictionnaire*, s v "Lestage", *Palmer's Continuation of Manship's Hist. of Yarmouth*, p. 7.

⁵ *Gross, Gild Merchant*, vol. 11, p. 279 (1200).

⁶ *MS. K. R. Customs*, 16/17a, *Skirbeck* (Boston, 1323), *ibid.*, 124/6 *Sandwich*, 1302-03.

⁷ "Si vero cum pace et licentia regis venisset, qui in ea erant quiete vendebant quae habebant Sed cum discederet, iiii denarios de unoquoque Lesth habebant rex et comes." *Domesday Book*, vol. 1, p. 262 b. See also a manuscript of the year 1852 in the Lynn archives (nondescript) which places the origin at the time of Stephen.

⁸ *Pipe Roll*, H. I, pp. 91, 153.

⁹ *Ibid.*, pp. 48, 61 (2 H. II), 75, 79 (3 H. II), 131, 158, 159, 182 (4 H. II)

¹⁰ *Ibid*, 18 H. II, p. 98.

¹¹ *Rot. Can.*, 3 John, p. 214; *MS. Pipe R.*, L.T.R., No. 50, m. 7a (6 John); *ibid.*, No. 62, m. 9a (2 H. III).

The lastage of at least four towns, Boston, Lynn, Yarmouth, and Ipswich, was in the hands of the Hauville family, where it continued apparently about a century following the year 1217,¹ and in case of Yarmouth was still in private hands in the year 21 Richard II (1397-98).² The tenure of this fee was the serjeanty of receiving the king's presents, especially falcons.³

It is difficult to decide, owing to the badly arranged text of *Liber Albus*, whether this fast disappearing due was collected at London. Under the caption "Tronage," we find the first section dealing, not with the tronage of wool, but another custom on wool, etc., "taken out of London to the parts beyond sea, by merchants liable to custom."⁴

Thus it appears that lastage was collected at nine ports, and perhaps ten, all the way around the coast from Boston to Chester.

It happens that there have been handed down a list of lastage rates of about thirty different commodities for Skirbeck (Boston),⁵ and lastage accounts of the closing years of Edward I, for Sandwich.⁶ From these the nature of lastage may be determined. According to the Skirbeck document, lastage "arose from divers merchandises carried out of England to parts beyond

¹ Ralph of Yarmouth, in 1217, conveyed his right to lastage in Norfolk, Suffolk, and Lincolnshire to Henry de Hauville. Palmer's Continuation of Manship's Hist of Yarmouth, p. 7. In 1318, Robert de Walkefare was pardoned for acquiring in fee, without licence, the lastage of Skirbeck (Boston) from Thomas de Hauville. Cal. Pat. R., Ed. II, vol III, p. 114. Cf. also Cal of Inq., I, §§ 281, 337, 361 (39 and 40 H. III); *ibid.*, vol § 381 (8 Ed. I); Inquisitio ad Q. D., 135/10 (12 Ed. II), K. R. Customs, 16/17a (17 Ed. II).

² MS. Harl., 1878, 2b.

³ Cal. of Inq., vol I, § 281; Abbreviatio Placitorum, p. 285.

⁴ Liber Albus, vol. I, p. 226.

⁵ MS. K. R. Customs, 16/17a. In Sandwich it seems that not so many goods paid lastage, the chief being wool, hides, butter, cheese, bacon, and fish. MS. K. R. Customs, 124/12 (31-32 Ed. I).

⁶ *Ibid.*, 124/5, 14.

seas.”¹ And in the Sandwich accounts we see the three layers of customs, *custuma ville*, *lastagium*, and the *nova custuma* of 1302–03, all at times due upon the same articles of trade. Take an alien merchant exporting goods as an example. He paid *custuma ville* on all his goods, lastage upon the chief natural products of the country, and also the new customs on all his wares.²

Lastage resembled the local customs in that there were many exemptions in favor of the burgesses of numerous English towns,³ and of foreign merchants.⁴ Then too, as has been seen, it was put to farm, like local tolls, and granted out as fees. But lastage was not a local toll, not the *custuma ville* on exports, for the same goods going abroad paid both lastage and *custuma ville*,⁵ and indeed the rates were not the same,

¹ “Provenit ex diversis mercimoniis transfretantibus extra Angliam ad partes transmarinas.” MS. K. R. Customs, 16/17a Cf. Abbreviatio Placitorum, p. 285 (19 Ed. I). “Quandam consuetudinem vocatam lestagium de mercandiziis usque partes exteris transeuntibus”

² “Recepta custume de Sandwyco ”

“De Dyonsio Bell de Ipse pro IX dolis vini IIIIs, pro IIII saccis Lane VIIIId, pro II balis alluciorum VIIIId., pro I granario Wode IIIId ”

“De Johanne Froydecosine pro I bala Panni IIIId, pro II saccis Lane IIIId ”

“Recepta custume Lastagu de Sandwyco ”

“De Dyonsio Belle de Ipse pro IIII saccis Lane XVIId.”

“De Johanne Froydecosine pro II saccis Lane VIIIId.” (K R Customs, 124/14. Mich 32 Ed I — Mich 32 Ed I)

“Particule Nove Custume recepte apud Sandwycum, Custuma lanarum, pellum lanutarum, et coriorum . . . de regno eductorum ”

“De Dionisio Bella de Iapre pro IIII saccis et III clavibus Lane — XIIIIs. VIId qa.”

“De Johanne Fredecosyn pro II saccis Lane VIIs VIIIId ” (Accounts dealing with other articles exported are missing MS K. R. Customs 124/13 Mich. 32 Ed I — Mich 33 Ed. I)

³ London, Stubbs, Select Charters, p 103 (H I), Norwich, Rec of Norwich (ed. Hudson), vol 1, p. 12 (1194); Lincoln, Rot Chart, vol 1, p 4a (1199)

⁴ The men of St Omer “sint quieti per totam Angliam undecumque venerint, de lestagio.” Giry, St Omer, p 381 (1154–62)

In Skirbeck the jury said “Iste predictae consuetudines percipiendae sunt de omnibus hominibus cum predictis rebus transfretantibus exceptis hominibus de Gutland, de Fryseby in Friseland, de Northweya, de Scotia, de Hibernia, de Colonia, et de hominibus de London, et de pluribus aliis mercatoribus, videlicet, Johanne Martyn de Setham et aliis ” (MS K. R. Customs, 16/17a (1323))

⁵ MS. K. R. Customs, 124/5 (27 Ed. I), and 124/14 (32–33 Ed I).

tho the variation was not considerable.¹ Hence we are forced to make a new category for lastage. In the two essentials of foreign trade and political imposition it was a national due; but in secondary characteristics, — exemptions and feudation, — it was local. Lastage, then, was a semi-national customs-due.

(b) *Scavage*. Scavage was a custom, as *Liber Albus* twice makes known, due only on wares imported from abroad.² From a list of merchandise imported from the Continent on which scavage was due, we learn that it was levied only on foreign goods, such as spices, fruits, mercery, etc.³ Like lastage, it was collected only on articles of foreign trade and was payable originally to the king.⁴ But unlike lastage, it seems to have been confined to London. At least it seems not to have had general application elsewhere, tho the term is treated in a medieval glossary as if of general use.⁵ As in the case of lastage, there were many who owed no scavage,⁶ and since those who paid it were forced to live with hosts, we may conclude that it was non-freemen who were liable, tho it is clear that some

¹	Articles	Lastage	Custuma ville
	Bacons, each	1d.	1d
	Cheese, wey	1d	1d.
	Herrings, last	1d	4d
	Hides, dicker	2d	2d.
	Wool, sack	4d.	2d

MS K R. Customs, 124/12 Sandwich, 31-32 Ed. I

² Vol 1, pp 225, 230

³ *Liber Albus*, vol 1, p. 223 *Spelman* (*Glossarium*, ed 1687, p. 503) defined scavage as "Tributum quod a mercatoribus exigere solvent nundinarum domini, ob licentiam proponendi ibidem venditioni mercimonii. Cf. *Du Cange*, s v. "Ostentio," and *Thorpe*, *Ancient Laws and Institutes*, Glossary

⁴ *Liber Albus*, vol. 1, p. 223.

⁵ "Scheauwyng, id est, Propositio mercimonii Galliee, Displeyure de marchandise." *Liber de Hyda*, p. 43; "Shewite — Quite de moustraunce de marchandise" *Red Book of the Exch*, vol. III, p 1033.

⁶ *Liber Albus*, vol. 1, p. 225.

aliens were specially exempt.¹ In the thirteenth century, the rating was so much per load, or per "kark of merchandise."² At a later date it consisted of many minute and varying rates.³

The history of scavage can be followed from about the period of the Conquest to modern times. It comes to light for the first time in an obscure list of "customs of Billingsgate,"⁴ the date of which is uncertain but may be assigned to the eleventh century.⁵ During the following century, it was mentioned in a charter given to St. Omer.⁶ In 52 Henry III (1267-68), it was accounted for in the Pipe Roll.⁷ And in a list of London customs of the late thirteenth century, it is set forth at considerable length.⁸ It seems to have been due at Billingsgate, Queenhythe, and Dowgate, that is, wherever ships importing goods landed their cargoes.

But what chiefly interests us is the combination of national and local characteristics, which enables us to place it in the same category as lastage.

(c) *Ancient wine custom.* This due has been at least thrice noted by others, firstly, as "in the nature

¹ The merchants of Lorraine paid no other "escawenge" except the "wine custom" Hohlbaum, Hans Urkundenbuch, vol 111, § 602 (ca. 1150) "The merchants of Germany" were exempt. Liber Albus, vol 1, p 225-226. The men of St Omer were likewise freed from "scawinga" in London Charter of H II to St. Omer. Giry, St Omer, p 381 (1154-62)

² Liber Albus, vol 1, pp. 223-224, 230

³ E.g., MS Galba, C 1, fol 228 ff (H VIII), Rates of the Custome House, 1590, pp 47b-52; MS Br M., 12497 (1594), Birch, Hist Charters of London, pp 212 ff. (Car I), unspecified goods to pay 1d per £.

⁴ "Hogge, Leodium, et Nivella, qui per terras ibant, ostensionem [scavage] dabant et teloneum" Hohlbaum, Hans Urkundenbuch, vol 1, § 2.

It may be that "ostensio" is referred to in Domesday Book vol 1, p. 262b in the Chester customs "Si habentes martinis pelles juberet praepositus regis ut nulli venderent donec sibi prius ostensas compararet"

⁵ Hohlbaum, Hans. Urkundenbuch, vol. 1, § 2, vol 111, § 599. The date is here given as about the last third of the 11th century

⁶ Giry, St. Omer, p 381 (1154-62)

⁷ 75£. 6s. 10d "de consuetudinibus omnimodum mercandis arum venientium de partibus transmarinis ad Civitatem praedictam, de quibus consuetudo debetur quae vocatur Scavagium." Madox, vol 1, p 779 n.

⁸ Liber Albus, vol. 1, p. 223.

of a port due " ¹ (8d. per tun), secondly, as an excise (1d. per tun) and a local due, ² and thirdly, as brokerage. ³ But it seems that these views are not merely contradictory; they are all incorrect.

This wine custom was in reality an import duty payable in money and called as well "escawenge," or scavage, as "la custume del vin," and existed at least as early as about 1150 in London. ⁴ In the London scavage rates of the sixteenth century wine is listed at 2d. per tun, ⁵ a rate which was also given to the out ports, ⁶ and probably to the metropolis, ⁷ by Henry III. Two definite wine import duties were recognized by Henry III, one the *recta prisā*, and the other "the customs of pence imposed upon every tun in the divers ports." ⁸ And in 1302, in the charter of liberties granted to the merchants of Aquitaine, a 2s. butlerage was substituted for the ancient prise, but this was "over and above the ancient customs due and accustomed to be paid in money either to us or to others." ⁹ This was repeated in the *Carta Mercatoria*. ¹⁰

Whilst the local due on wine was 4d. per tun, ¹¹ this due was from the time of Henry III, as has been seen, only 2d. The information about this wine duty is scanty indeed, it seems fairly clear that it was a part of an early national customs system, a duty paid in

¹ Stubbs, *Const. History of England*, vol. II, p. 550.

² Hall, *Custom-Revenue*, vol. I, p. 7; vol. II, pp. 93, 109.

³ Bateson, *Engl. Hist. Rev.*, vol. XVII, p. 498.

⁴ Hohlbaum, *Hans. Urkundenbuch*, vol. III, § 602. The men of Lorraine "ne durront autre escawenge fors la custume del vin ceo est le cornage V [or II ?] deners de chesun tonel" *E. H. R.*, vol. XVII, p. 501.

⁵ Rates of the Custome House, *Br. M.*, C 40, b 29 (1590).

⁶ *Cal. Cl. R.*, H. III, 1227-31, p. 153 (1229).

⁷ *Liber Albus*, vol. I, p. 228 (ca. H. III ?).

⁸ *Cal. Pat. R.*, H. III, 1247-58, p. 370 (1254), cf. *ibid.*, III, 294 (1253-54).

⁹ *Red Book of the Exch.*, vol. III, p. 1063.

¹⁰ Hall, *Custom-Revenue*, vol. II, pp. 202 ff.

¹¹ *MS. Claud. D.*, x, pp. 182b ff. (Sandwich), Woodruff, *Hist. of Fordwich*, p. 32, *MS. K. R. Customs*, 137/10 (Southampton, 13-14 Ed. III), cf. *ibid.*, 137/11 and 12.

the ports generally, in private¹ as well as royal² franchise, one in which the crown had a special interest, and never classed with local customs. Nevertheless it seems to have partaken of the local system in so far as local exemptions were concerned.³ It is not improbable that this money duty on wine is all that has come down to us of a scavage originally due in the outports as well as in London.

(d) *The prise of wines.* The prise of wines comes to light apparently for the first time about 1150, in the regulations for the men of Lorraine coming to London. "And if it is a ship, they will take two⁴ tuns behind the mast, and one before, the best for as much as they sell the mean. And the mean for as much as they sell the worst. And if it is a hulk or other boat, one tun before and another behind, the best for as much as they sell the mean. And the mean for as much as they sell the worst."⁵

From this document it appears that the amount of wine which the king might take was fixed according to the size of the ship. It is also to be noted that the king was to buy his wine at a little below the market price. It is not assumed that he will always buy the best, and indeed since some of it would doubtless be for his servants, why should he have done so, especially

¹ For example at Sandwich, in 1229 Cal Cl R., H III, 1227-31, p. 153.

² As at London Hans Urkundenbuch, vol III, § 602 (ca 1150). Also the ports of Yorkshire (?) "De Cs et VIIs et IXd et ob de denaris captis de vino, scilicet de Tonello IIIId" Madox, vol. i, p. 774 n (Michaelmas, 12 John to Mid-Lent following).

³ Liber Albus, vol. i, p 228 (c. H. III ?).

⁴ The Liber Ordinacionum, f. 161 b (E. H. R., vol xvii, p 500) has a corrupt reading From the ship three tuns were due, and from the hulk four

⁵ "E si co est chiel, il prendrunt deus tonels bas le tonge, e un devant, le meillur pur altretant cum lom vendra le meein Et le meein pur altretant cum lom vendra le peur E si co est hulk, u altre nef, un tunel devant e altre deriere, le meillur pur altretant cum lum vendra le meien E le meen pur altretant cum lom vendra le peur" E H. R., vol xvii, p 500 This is a better text than that printed by Riley or Höhlbaum The date given by Höhlbaum and Miss Bateson is about a century earlier than that assigned by Riley.

when he had to pay for it? This regulation, or "law" as it was called, was for the king's benefit, a guarantee against extortion on the part of the merchant.

At about the same time, Rouen received a charter which laid down the principle that no wine duty was to be given in Rouen except wine itself.¹ And in 1199, John's charter to that town granted to the citizens certain privileges but stated that they should be subject to his prise of wines in London, which was defined as the pre-emption of only so much wine as was necessary for the king's use, that is "for his own drinking, or for giving away as he will, but not for selling."²

The wine prise so well known in history was the *recta prisā*. The earliest specific occurrence found of this phase is of the year 1202.³ Whilst the prise of 1150 was definite in amount, it was not fixed as to price. It is probable that some time in the reign of Henry II an assize, now lost, was issued, fixing for all England the price which the king should pay for his wine, 15s. in Bristol, and 20s. elsewhere,⁴ and likewise standardizing the amount for all ships at one tun before the mast and one after.⁵ So that a "*mala prisā*" of wines would be the pre-emption of more than one or two tuns, either at the regular price or otherwise, or the pre-emption of one or two tuns at any other than the "right prise."⁶

Even at the time of the determination of the *recta prisā*, no idea of a tax could have prevailed at all.

¹ Chéruef, Histoire de Rouen, vol 1, p 241 ff., Round, Calendar of Documents in France, vol 1, pp. 32-33.

² Round, Calendar of Documents in France, vol 1, p 36

³ "De vinis prædictis nullam prisam capiatis, præterquam rectam prisam nostram. Madox, vol. 1, p. 767.

⁴ MS. K. R. Accounts, 352/15 (15-17 Ed I), ibid, 77/18 (8 Ed. II).

⁵ Liber Custumarum, vol i, pp. 252-253 (53 H. III), Fleta (ed. 1647), 80 (ca. 1290).

⁶ There were taken for instance from Gascon merchants 27½ tuns @ 20s., and 37½ tuns @ 2½ marks, "ad opus nostrum." Rot. Lit Cl, vol. 1, p. 5 (1204).

At the time of the assize, 20s. per tun would not have been much, if at all, below an average price.¹ The duty on wine at the time was not the *recta pris*a but the ancient wine customs above considered. Time brought about a rise in prices and the *recta pris*a became a real tax. The *recta pris*a as a tax is historically an accident. The king became the beneficiary of an unearned increment.

The later history of the prise is well known. It was commuted into a money payment by the merchants of Aquitaine in 1302,² and by aliens in general in 1302-03.³ Only in the eighteenth century were denizens freed from the obligation.

The simple facts of importance in the early history of this prise have thus been stated. It remains to be seen what the accepted theory of wine prises is, for that theory is of importance in so far as it forms the analogy on which the general prise theory is founded.

Briefly, this accepted theory is as follows.⁴ Three distinct stages of development are found. (1) The first saw the king purchasing as much wine as he needed at a price "far below" the market value, "at the most, for half its market value."⁵ But as already seen, both the amount taken and the price were in fact limited, the former fixed according to the size of the ship, and the latter rated in definite terms of the market price. (2) Whilst in the first stage apparently aliens and denizens were lumped together, in the second stage they parted company.

¹ John's assize of wines, 1199, practically our only source of evidence, placed the maximum price of the wine of Portou at 20s. per tun, of Anjou at 24s., and of France proper at 25s. Hovedon, vol. iv, p. 99

² Carta de Libertatibus, Red Book of the Exch., vol. iii, pp. 1060 ff.

³ Carta Mercatoria, Hall, Custom-Revenue, vol. ii, pp. 202 ff.

⁴ Hall, Custom-Revenue, vol. ii, pp. 90-92.

⁵ Ibid., p. 63.

The denizens were subjected to a prise definite in amount, about a tenth, at the king's price. This was the *recta prisa*. But such is really a misconception of the term. The prise was "right," not so much because it was definite in amount (it had been so before, tho now that amount was standardized), as because the price per tun was fixed independently of market price. Stubbs originally defined the *recta prisa* with approximate correctness,¹ but yielding to criticism,² substituted the incorrect explanation,³ which has gained acceptance in other standard works.⁴

Not only has the *recta prisa* been wrongly defined as a prise of wines at the king's price, but it is even described as if it were an out and out "taking,"⁵ or seizure without payment.⁶ And indeed it has been remarked that "it is new to find that the king was expected at one time to pay for the wines of his butlerage."⁷ The prise was of course first and last a purchase of wines, differing from other purchases only in that it was official and took place according to prescribed rules. It is, again, a part of the theory that, in the second phase, aliens fined to the crown, in the shape of licence money, either in a "lump sum for the whole cargo," or as a "fixed toll," so much per tun. Not an iota of evidence is cited to support this hypothesis. No trace of such a toll has been found accounted for in the Pipe Rolls or in the Wardrobe accounts. And up to the time when the men of Aquitaine substituted

¹ Const History of England (ed. 1875), vol. 11, p. 522.

² Hall, Antiquary, vol. vi (1882), p. 65; Custom-Revenue, vol. i, p. 6

³ Const History of England (4th ed.) vol 11, p. 550.

⁴ E g., Cunningham, English Industry and Commerce (4th ed.), vol. 1, p. 279.

⁵ Hall, Antiquary, vol. vi (1882), p. 65.

⁶ Cunningham, English Industry and Commerce (4th ed.), vol. 1, p. 279; Meredith, Economic History of England, p. 72.

⁷ Bateson, English Hist. Rev., vol xvii, p. 497.

a money due for the prise, the prise itself was taken.¹ (3) For denizens, the third and last phase (in this theory) saw no change. They were still subject to the wine prise as before. For aliens, however, the "commuted toll" was "fixed." But this is an impossible conclusion, if, as is here maintained, there was no such previous commutation.

In sum, the prise theory, even as applied to wine, where it seems strongest, will not stand the test. Only one shred of fact remains: alien's wine prise was the progenitor of what was later called butlerage. To enlarge this into a general system, to give the prise a general application, is to make the exception the rule.

But the importance, for the present subject, of the wine prise is not only in its connection with later customs but also in its place in the customs system of its own time. Since the prise was due from imported wine only,² and was imposed by the crown in most ports of England, it formed a part of the national customs system. On the other hand, in many ports of private franchise, if not in all, the prise of wines was at one time or another in the hands of the lord of the franchise; for example, in Sandwich,³ Fordwich,⁴ Lynn,⁵ and Hull.⁶ And it is precisely here that we

¹ "Rotulus Guageri et vinorum de prisā venientium ad diversos portus Anglie" MS. K. R. Accounts, 77/10 (29-30 Ed. I). In this account the ships of Bayonne were subject to the wine prise. The account itself actually runs to St. Edmund's day, nearly two months after the abolition of the prise on the wine of the men of Aquitaine, by the Carta de Libertatibus, 30 Aug., 30 Ed. I. Red Book of the Exch., vol. III, pp. 1061 ff.

² A freeman of London, in order to prove his right to exemption from the wine prise, was to swear that he had bought the wine "beyond seas." Rotuli Selecti (ed. Hunter), p. 32 (7 John).

³ MS. K. R. Customs, 157/12 (ca. 1300), MS. Claud. D., x, pp. 182 b ff. Sandwich tolls were in the possession of Christ Church of Canterbury.

⁴ Woodruff, History of Fordwich, p. 34. Tolls here belonged to the monastery of St. Augustine, Canterbury.

⁵ Lynn archives, MS. E. e., 5 (38 Ed. III). The bailiff of the bishop of Norwich and Roger de Monte Alto had no claim "in praedictis prisīs nisi tantomodo de vinis."

⁶ MS. K. R. Accounts, 78/4a (2-3 Ed. III). "Excepting the prises which the lord archbishop [of York] collects in the aforesaid port [of Hull] by the king's writ, the customs on wines there have wholly ceased."

see the local overlap the national system; provided, of course, the lord of the franchise collected the wine prise without a special privilege to that effect. This, however, seems doubtful, tho it is certain that the archbishop of York based his rights in Hull upon an Anglo-Saxon charter antedating the origin of the prise itself.¹

Again, exemptions from the prise were considerable in so far as the men of London² and the Cinque Ports³ were not liable in their own ports, or in any other ports in England.⁴ On the other hand, as the accounts show, there was no exemption for men of the ancient demesne as such. From this two conclusions follow: (a) the institution of the prise does not go so far back as the Conquest, and (b) since the men of the ancient demesne were exempt from local tolls, the prise of wines does not belong wholly to the local system, much as the local system may have influenced it. That the prise was in danger of being treated simply as a local due is seen from the fact that the crown made special efforts against its collection on wines disposed of in the coast trade.⁵ This danger arose largely from the fact that the nature of the national customs in the hands of the lords of franchises was imperfectly understood.

In brief, the wine prise may be designated as essentially national, but considerably affected by the local system.

¹ Cal Cl R, Ed. III, vol 1, pp 51-52 (1327)

² Rotuli Selecti (ed Hunter), p 32 (7 John), cf Red Book of the Exch., vol 111, p. 1035. "Forefeng"

³ Cal Cl R, Ed I, vol 1, p 22 (1273), Cal Ch R, Ed I, vol 11, p 344 (1290).

⁴ "Only the cittyzens of London, and those of the V portz are exempt from prisage, but no other englishe" MS Harl 1878, fol 152 (ca. 17th cent.). Cf. MS. K. R. Accounts, 84/27 (23 H VII), 86/3 (8-9 H VIII), 87/25 (4 & 5-5 & 6 P. & M.

⁵ E. g., Cal Cl R, H III, vol 111, p 420 (1237).

If the description of the above several dues is correct, there existed in the twelfth century or earlier a more or less complete set of national customs, some of which continued locally down to modern times, but most of which early but gradually sank into desuetude before the later and better known customs. This was facilitated by the great rise of prices in the thirteenth century,¹ which reduced the importance of the existing customs and made the introduction of others possible. Their decay was furthered by the fact that no special machinery had been created for their supervision. Hand in hand with this went the all-powerful localism of the time. Following the first group, the local customs, was this second set of "ancient customs," hitherto unrecognized, which, however, are those mentioned in the *Magna Carta*, *Carta Mercatoria*, and other documents of the period.

Once this analysis of the ancient customs is accepted there is no room for the prise theory with its accompanying commutations and indefinite tolls. A faithful student of the medieval financial history of England has expressed some impatience with the accounts of the ancient customs. "We have heard," he writes, "of imposts of 10 per cent and $7\frac{1}{2}$ per cent (tenths and fifteenths) on divers articles; of a primeval duty of 4d. or 8d. on the tun of wines; of the king's *Prisage* of wines. . . . But the notices were too scattered to enable us to give any connected view of the whole."² The account of the customs given above explains why they are "scattered;" nothing else is to be looked for in the *debris* left by the conflict of systems and ideas, local and national.

¹ This subject will receive special treatment on another occasion.

² Ramsay, *Dawn of the Constitution*, p. 314.

IV

THE CUSTOMS EXPERIMENT OF KING JOHN

The well-known fifteenths of history have been either tallages or general taxes on moveables. The fifteenth of John, of interest here, an innovation and experiment of that king, was an *ad valorem* tax on foreign trade imposed by the crown and of general application throughout England. It has already been seen that the fifteenth as a *prise* commutation is a myth, and the statement that "customs on general merchandise were collected in the shape of a fifteenth or other sum levied very much as a toll or licence to trade,"¹ is beside the mark. The fifteenth was neither licence money, nor was it found except for a few years in the reign of John. The fifteenth was likewise not on "both lands and goods,"² but on goods alone and only when exported or imported. Apart from the historians quoted, apparently only two have more than noted the fifteenth, — Madox, who printed some accounts,³ and Faber, who gave a summary of the regulations.⁴ Otherwise this notable attempt of John to found a new customs system seems to have been forgotten. At the time when John was in desperate straits for money and daily losing ground in France, he not only resorted to irregular levies upon articles of trade, but also introduced the new *ad valorem* tax, the fifteenth. This made its appearance, more precisely, June 4, 1203. It probably disappeared sometime be-

¹ Stubbs, *Const History of England* (4th ed.), vol. ii, p. 550

² Thompson, *Collections of Boston*, p. 101.

³ *History and Antiquities of the Exchequer*, vol. 1, pp. 771-773.

⁴ *Agrarschutz in England*, pp. 62-64.

tween the ninth¹ and twelfth² years (1207-10) of the same reign.

The Great Winchester Assize of Customs, which outlines the whole system, was enrolled as a letter patent, and is among the earliest of its kind preserved in England, tho the original roll is in places now much less legible than the printed document.³ The essential features of the new system may be briefly summarized. It was decreed "by the advice of our liegemen" that all merchants shall pay to the king a fifteenth of their merchandise exported or imported; that in each port six or more collectors be elected who are to be under the control of the chief custodians of the fifteenth; that the usual machinery of common chest, tallies, and chirographs be adopted; that special provision be made for coast-traders, who are to find security for the performance of their legitimate functions;⁴ and that the exportation of victuals and other specified commodities be forbidden unless under licence.

Altho but little importance is to be attached to the phrase "by the advice of our liegemen," still its presence indicates that some attempt was made to secure the sanction of officials or magnates. From the phrase as it stands, one may conclude that probably only the narrower group of magnates, those immediately about the king, rather than any large assembly assented to the plan. This is the more likely to have been the case

¹ London's exemption Madox, vol. 1, p. 773 n

² Account of the custodians of the sea-ports (and of the fifteenth), omitting all mention of the fifteenth Madox, vol. 1, pp. 773-774.

³ Rot Lit Pat, vol. 1, pp. 42-44

⁴ For the working out of this provision, see *Abbreviatio Placitorum*, p. 94 (temp. John, year unknown). A jury of the men of Portsmouth gave evidence concerning three ships leaving their port: one was from Rochelle and had paid the fifteenth, the second came from Exeter and bore a certificate that the fifteenth had been paid at Dartmouth, and the third was from Winchelsea with wine, of which pledges had been taken (as guarantees in the coast trade)

as the king was at the time waging war on the Continent.

The system was evidently regarded as a permanent institution. No time limit occurs in the assize; special machinery was established; and in the ninth year of John, London paid a fine of 200 marks to be freed from payment.¹

In the creation of the special machinery for carrying out the assize, the later and more permanent system of customs was anticipated at many points. Collectors (bailiffs) took the money, and had charge of the machinery generally. Comptrollers kept a counter-roll and in other ways acted as a check upon the bailiffs. Accounts were turned in to the exchequer and coast certificates were issued, as at a later date.

Since contemporary historians passed over in silence this experiment in customs establishment, which might be expected to have aroused their attention, one is inclined to question whether the system was ever put to a test. But the summary accounts of the money collected, enrolled in the Pipe Roll,² dispel such a

¹ Madox, vol. i, p. 773 n.

² *Compotus Willelmi de Wroteham Archidiaconi de Tanton et Reginald de Cornhull et Willelmi de Furnell de Quindena Mercatorum per portus maris.*

Newcastle	£158 5 11	Orford	£ 11 7 0
Jarrow	42 17 10	Ipswich	7 11 7½
Cotun	0 11 11	Colchester	16 12 8
Whitby	0 4 0	Sandwich	16 0 0
Scarboro	22 0 4½	Dover	32 6 1
Hedun	60 8 4	Rye	10 13 5½
Hull	344 14 4½	Winchelsea	62 2 4½
York	175 8 10	Pevensey	1 1 11½
Selby	17 11 8	Seaford	12 12 2
Lincoln	657 12 2	Shoreham	20 4 9
Barton	33 11 9	Chichester	23 6 7
Ymmingham	18 15 10½	Southampton	712 3 7½
Grimsby	91 15 0½	Exmouth	14 6 3
Boston	780 15 3	Dartmouth	3 0 0
Lynn	651 11 11	Esse	7 4 8
Yarmouth	54 15 6	Fowey	48 15 11
Norwich	6 19 10	London	836 12 10
Dunwich	5 4 9	Total	4958 7 3½

doubt. For the first time, we find recorded the "customs of England,"¹ in reference to indirect taxes on trade. This was not a mere phrase; it was a reality. Nearly all England was embraced; and besides, only goods of export or import were liable to the duty. Coastwise trade was specifically exempt, and no provisions existed for the collection of the fifteenth elsewhere than on the sea-coast by the custodians of the ports and their agents.

But the fifteenth did not wholly rise above the prevailing practice of the time: it suffered to some extent from exemptions, as did the earlier set of dues, for, as has been seen, both denizens (Londoners)² and aliens³ secured freedom from paying the tax.

Since none of the details of the "taking off" of the system have come down to us, we are left to conjecture the causes. Two features may be pointed out: the high rate, $6\frac{2}{3}$ per cent, about three times the local rate; and the comparative freedom from local exemption. This latter was at once its strength as a system, and its weakness in that it ran counter to the localism of the period. It is probable that the whole system degenerated into one of extortionate licence fees. The maltolts of the Great Charter were doubtless the fees for licences mentioned in the Assize of Winchester.

¹ "Consuetudines Angliae," Rot. Lit. Pat, 43 b

² Madox, vol. 1, p. 773 n.

³ "Rex, etc, Willelmo de Wrotham et sociis suis etc. Mandamus vobis quod quietis mercatores de Norweg quindena de mercandis suis." 5 Sep, 6 John, Rot. Lit Cl, vol. 1, p 7a

V

CONCLUSION

During the period 1215-75, there were thus three prominent customs features, (a) local customs, (b) semi-national customs, and (c) a revival or continuance of John's irregular levies upon articles of trade, a practice systematic only in its irregularity, and in no way leading to a customs establishment.

We are now in a position to draw up a list of the customs according to the classification here adopted.

Schedule of customs:

- I. Local (about 8th century onwards):
 - (a) For general use, *custuma ville*.
 - (b) For a service, *e. g.* *pesage*.
 - (c) For a privilege, *e. g.* *strandage*
 - (d) For a utility, *e. g.* *murage*.
- II. Semi-national (about 1050 onwards):
 - (a) *Lastage*.
 - (b) *Scavage*.
 - (c) Ancient wine customs.
 - (d) *Prise of wines*.
- III. National (from 1203 and 1275 onwards):
 - (a) Customs of King John.
 - (b) Customs of 1275.
 - (c) New Customs of 1302-03.
 - (d) Wool subsidy.
 - (e) Tonnage and poundage.

} irregular,
Ed. III following.

Until 1203, we may say, all efforts to establish a national customs system failed because of the strength of local organization. The system was set afoot but, where it did not die out through lack of trade or other unfavorable condition, it was modified to fit in with an all-pervading localism.

Between 1203 and 1347, the crown gradually did establish a national system apart from the local system,

but the progress was uphill, and accompanied with many reverses. John's attempt at erecting a complete system was never repeated. Henry III adopted to some extent the device of irregular pre-emptions of certain goods for sale again. No success attended his efforts to erect this into a system. At the same time licence fees continued to be exacted from denizen and alien merchants. But this too was not systematized, indeed never was in English history, except in the reigns of John and Elizabeth. It was only in 1275 that the corner stone of the later and well-known system was laid, tho the scope of the grant of that year was very limited. One other stone was laid by the *Carta Mercatoria* in 1302-03, but only aliens were subject to the new customs imposed. The rest of the structure was left for Edward III to erect, and for his successors to consolidate. The work was done only by strong hands and piecemeal, but it was done surely; no local privileges were allowed to stand.

The earlier set of customs had some chance of living on just because they were localized. The later ones brought on violent reactions because the local system found no place within the new scheme. Privileged burghers, especially those of London and the Cinque Ports, did not like the prospects of paying indirect taxes where formerly they had been wholly exempt. Only in the case of the parliamentary grant of 1275 did the local hierarchies acquiesce without struggle. The combined forces of decadent localism and nascent constitutionalism stood out against financial innovation. The reactions of 1215, 1258, 1297, 1303, 1311, and 1347 are landmarks in the conflict.

It is not a solecism, as Gilbert maintained, to speak of the origin of the customs, if we mean the national customs system. That origin is to be found in definite

duties imposed on foreign trade at remote dates. The acts, assizes, and ordinances promulgating those duties are now lost. Indeed anyone who tries to read the letter patent calling John's system into existence will realize by how narrow a margin that document escaped oblivion. The different national customs constituted definite mile-posts, the exact position of which is now unknown, and their very existence discovered only from their remains. Only the local customs were in origin customary. These supplied both the name and the example for the national customs. In the national system the great innovations were the levying of duties by the king in his political capacity, and the conception of a foreign, as distinct from a local, trade, a theory clearly laid down in 1203 and plainly put into execution. The only surprising feature about these early customs is just that they were national at so early a date. That they were so in the time of John and at the Conquest clearly shows that the idea was conceivable and conceived. But before the dominating particularism of the times, these customs were transformed into something different, tho where they survived at all they never quite lost their identity. The first great chapter of national customs history is a vital part of the development from the local to the national economy.

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